

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

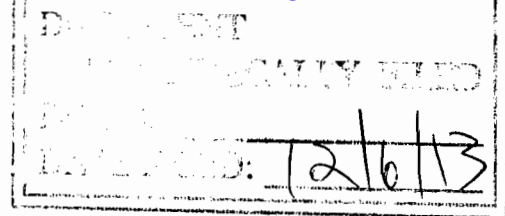
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GARCIA-LEONARDO,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.  
----- x



10 Civ. 6653 (JSR) (DF)  
03 Cr. 134 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

On September 16, 2013, the Honorable Debra Freeman, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending the denial of petitioner's petition filed pursuant to 28 U.S.C. § 2255. On October 29, 2013, petitioner submitted objections to certain portions of the Report and Recommendation.<sup>1</sup> Accordingly, the Court has reviewed the petition and the underlying record de novo.

Having done so, the Court finds itself in complete agreement with Magistrate Judge Freeman's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court dismisses the petition, with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal by petitioner from this Order would not be taken in good faith, as petitioner's claim lacks any

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<sup>1</sup> Previously, on September 30, 2013, respondent submitted what it termed an "objection" to the Report and Recommendation, seeking to preserve an alternative ground for dismissal not reached by Judge Freeman.

arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). Clerk to enter judgment.

SO ORDERED.

  
JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
December 5, 2013